IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 567 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

MAHANT ANANDGIRI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 567 of 1997

MR SP HASURKAR for Petitioner No. 1

MR IM PANDYA APP for Respondent No. 1

MS MAMTA R VYAS for Respondent No. 3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 20/06/2002

ORAL JUDGEMENT

1. The learned counsel, Mr.S.P.Hasurkar, during the course of his vehement arguments, fairly conceded that

common issues having been involved, this Revision Application was at one stage ordered to be heard with the other Criminal Revision Application No.284 of 1998 and even supposed to have been disposed by a common order. However, when it was learnt that this revision was not listed or disposed along with the aforesaid Criminal Revision Application No.284 of 1998, it was argued on merits.

2. This Revision Application is directed against the judgment and order of the learned Additional Sessions Judge, Bhuj, Kutch in Criminal Revision Application No.94 of 1997, whereby, allowing the revision, the calves entrusted to the respondent No.3 Panjarapole were ordered to be handed over to the respondent No.2 subject to the conditions contained in the impugned order. It was submitted that in view of the nature of the complaint and the likelihood of the animals in question being subjected to cruelty or slaughter at the instance of the respondent No.2, custody of the animals ought not to have been handed over to him. He further submitted that the animals were liable to be confiscated upon conviction of the accused, i.e. respondent No.2.

3. It must be noted that the present applicant is the original complainant and the Panjarapole, i.e. respondent No.3, from whose custody the calves are ordered to be taken away and handed over to the respondent No.2, has not made any grievance and not challenged the impugned order. Even in the case of Criminal Revision Application No.284 of 1998 raising identical issues at the instance of the Panjarapole, this Court (Coram: D.C.Srivastava, J.) has taken the view, relying upon the judgment of the Apex Court in MANAGER, PANJARAPOLE, DEODAR v. CHAKARAM MORAJI NAT [(1999) 1 SCC 587], that in a case where the owner is claiming custody of animals, Panjarapole has no preferential right.

4. The impugned order is apparently an interim order and sufficient protection is provided by the conditions imposed upon the respondent so as to prevent any chance or likelihood of cruelty to the calves in question. Thus, possibility of any cruelty to the cattle is merely in the realm of apprehensions of the petitioner and not borne out by any material on record. It is also not the case that the respondent No.2 has committed such offence earlier.

5. As discussed in brief earlier, the learned Additional Sessions Judge has made the impugned order in

judicious exercise of his discretion and no ground for interference is made out. Respectfully agreeing with the view taken by this Court in the aforesaid judgment, this Revision Application is dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

Sd/-

(D.H.Waghela, J.)

(KMG Thilake)